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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/924,278

08/07/2001

Chang Ahn

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10/28/2005

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EXAMINER

HSU, ALPUS

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|----------------------------|--|
| Office Action Summary | Application No. 09/924,278 | Applicant(s) AHN ET AL. | |
| | Examiner Alpus H. Hsu | Art Unit 2665 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-46, 48 and 49 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-8, 10-46, 48 and 49 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/3/05</u> | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's arguments with respect to claims 1-8, 10-46, 48-49 have been considered but are moot in view of the new ground(s) of rejection.

2. Claims 40-46 and 48 are rejected as vague and indefinite since claim 40 recites only a single means (transceiver) and thus encompasses all possible means for performing a desired function. See *Ex parte Bullock*, 1907 C.D. 93; 127 O.G. 1580.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7, 10-18, 20-28, 30-38, and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by GIBSON in U.S. Patent No. 6,678,264 (newly cited).

Regarding claims 1-7, GIBSON discloses a system, comprising: a transmitter (10) to send data frames over a multilink data connection; a receiver (11) to receive data frames over the multilink data connection; and the multilink data connection, containing a set of individual links given a credit value (ranks) based on speed of data transmission and current level of data traffic for each link, wherein a data frame is sent over the link with the credit value that is largest (col. 5, lines 34-48).

Regarding claims 10-18, 20-28, 30-38, GIBSON discloses a method, a machine-readable storage medium, and an apparatus for transmitting data frames over a multi-link connection, by determining a rating of a link in a multilink data connection based on an amount of data that can be transmitted across the link in a set period of time; assigning an initial credit value to the link

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based on the rating; producing a current credit value by reducing the initial credit value proportionate to an amount of data currently being transmitted on the link; assigning a data frame to be transmitted across the link based on the current credit value; and transmitting the data frame across the link (see col. 2, line 20 to col. 4, line 6, col. 5, lines 34-48, col. 18, line 65 to col. 20, line 46).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 8, 19, 29, 39-46, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over GIBSON in U.S. Patent No. 6,678,264 in view of MA in U.S. Patent No. 6,493,317 (both newly cited).

Regarding claims 8, 19, 29, 39-46, and 48, GIBSON differs from the claims, in that, it does not disclose the feature of transmitting data frame over the link having a slower speed of data transmission when two links have the same current credit value, which is well known in the

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art and commonly used in data communications field for data routing preference. MA, for example, from the similar field of endeavor, teaches the selection of the link having a slower speed (low priority) of data transmission when two links have the same ranks for data frame transmission (col. 3, lines 32-41, col. 8, lines 42-49), which can be easily adopted by one of ordinary skill in the art to implement into the method and system in GIBSON, to provide the alternate selection of data links to further reduce the system cost for economical consideration.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jurkevich, Marin et al., and Bertin et al. are additionally cited to show the common feature of connection establishment in packet switched network based on level of traffic congestion similar to the claimed invention.

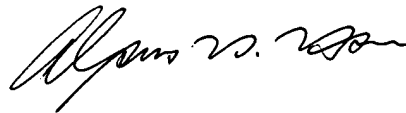
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHH

A handwritten signature in black ink, appearing to read 'Alpus H. Hsu', written in a cursive style.

Alpus H. Hsu
Primary Examiner
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